

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

PersonalWeb Technologies LLC,

Plaintiff,

V.

EMC Corporation and VMware, Inc.,

Defendants.

Civil Action No. 6:11-cv-660 (LED)

JURY TRIAL REQUESTED

ORAL ARGUMENT REQUESTED

**DECLARATION OF CORTNEY C. HOECHERL IN SUPPORT OF DEFENDANTS’
MOTION TO TRANSFER VENUE TO THE NORTHERN DISTRICT OF CALIFORNIA
OR, IN THE ALTERNATIVE, TO THE CENTRAL DISTRICT OF CALIFORNIA**

I, Cortney C. Hoecherl, declare as follows:

1. I am an attorney with Wilmer Cutler Pickering Hale and Dorr LLP, representing EMC Corp. and VMware, Inc. in the above-captioned action. I submit this declaration in support of their Motion to Transfer Venue to the Northern District of California or, in the Alternative, to the Central District of California. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, could and would do so competently.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the Declaration of Kevin Bermeister in Support of Plaintiffs' Opposition to Motion to Transfer in United States District Court, Central District of California Civil Docket for Case No.: 2:07-cv-06161-VBF-PLA obtained from the United States District Court, Central District of California Document Filing System.

3. Attached hereto as **Exhibit 2** is a true and correct copy of a July 6, 2011 Brilliant Digital press release entitled *Kinetech Inc. Granted 3 Additional Patents*, as found at the web address http://www.brilliantdigital.com/about/articles/press_release30.asp, and as accessed on February 3, 2012.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a September 28, 2011 PersonalWeb Technologies LLC press release entitled *East Texas Tech Company Acquires Foundational Cloud Computing Patents*, as found at the web address http://personalweb.com/media/20110928_PressRelease_PersonalWeb.pdf, and as accessed on February 27, 2012.

5. Attached hereto as **Exhibit 4** is a true and correct copy of Business Entity Details of Brilliant Digital Entertainment, Inc. from the California Secretary of State Debra Brown, as obtained from the web address <http://kepler.sos.ca.gov/cbs.aspx>, and as accessed on December 30, 2011.

6. Attached hereto as **Exhibit 5** is a true and correct copy of Business Entity Details of Altnet, Inc. from the California Secretary of State Debra Brown, as obtained from the web address <http://kepler.sos.ca.gov/cbs.aspx>, and as accessed on December 30, 2011.

7. Attached hereto as **Exhibit 6** is a true and correct copy of Business Entity Details of Kinetech, Inc. from the California Secretary of State Debra Brown, as obtained from the web address <http://kepler.sos.ca.gov/cbs.aspx>, and as accessed on December 30, 2011.

8. Attached hereto as **Exhibit 7** is a true and correct copy of the April 16, 2007 Business Wire article entitled *Kinetech Acquired by Brilliant Digital Entertainment (BDE)*, as found at the web address <http://www.businesswire.com/news/home/20070416006161/en/Kinetech-Acquired-Brillia>, and as accessed on February 21, 2012.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the July 6, 2011 IT News article entitled *Aussie Eyes Apple, Google over “cloud” Music Patents* as found on Brilliant Digital’s website at <http://www.brilliantdigital.com/about/news.asp>, and as accessed on February 3, 2012.

10. Attached hereto as **Exhibit 9** is a true and correct copy of a December 6, 2011 PersonalWeb press release entitled *PersonalWeb Launches Studypods*, as found at the web address http://www.personalweb.com/media/20111206_PressRelease_PersonalWeb.pdf, and as accessed on February 27, 2012

11. Attached hereto as **Exhibit 10** is a true and correct copy of U.S. Patent No. 8,001,096 entitled Computer File System Using Content-Dependent File Identifiers, as obtained from the United States Patent and Trademark Office.

12. Attached hereto as **Exhibit 11** is a true and correct copy of a Certificate of Formation of Personalweb Technologies, L.L.C., dated August 5, 2010, and filed in the Office of the Secretary of State of Texas, as obtained from the web address <http://www.sos.state.tx.us/corp/sosda/index.shtml>.

13. Attached hereto as **Exhibit 12** is a true and correct copy of the Accurant Finder Report from LexisNexis showing a recent location for a Michael Weiss at 3328 Casino Dr., in Thousand Oaks, California.

[illegible]

15. Attached hereto as **Exhibit 14** is a true and correct copy of the Accurant Finder Report from LexisNexis showing a recent location for a Murray Markiles at 17425 Cumpston Street, in Encino, California 91316-2515.

16. Attached hereto as **Exhibit 15** is a true and correct copy of the Accurant Finder Report from LexisNexis showing a recent location for a Mark Dyne at 15260 Ventura Blvd, FL 20, in Sherman Oaks, California 91403-5307.

17. Attached hereto as **Exhibit 16** is a true and correct copy of a Certificate of Formation of Personalweb, Inc. dated May 12, 2010, and filed in the Office of the Secretary of State of Texas, as obtained from the web address <http://www.sos.state.tx.us/corp/sosda/index.shtml>.

18. Attached hereto as **Exhibit 17** is a true and correct copy of the Accurant Finder Report from LexisNexis showing a Wasef Kassis owns property at 27064 Crossglade Ave., in Canyon Country, California.

19. Attached hereto as **Exhibit 18** is a true and correct copy of the Accurant Finder Report from LexisNexis showing the current location for a Kevin Bermeister at 15260 Ventura Boulevard, Suite 200, Sherman Oaks, California 91403-5325.

20. Attached hereto as **Exhibit 19** is a true and correct copy an excerpt of the Mr. Faber's Facebook page, indicting he lives in Ojai, California.

21. Attached hereto as **Exhibit 20** is a true and correct copy of an excerpt of a list of the "Company Management" for Catbird Networks Inc., listing Ron Lachman as Catbird's Founder, as found on Catbird's website at http://www2.catbird.com/about_catbird/management.php, and as accessed on February 17, 2012.

22. Attached hereto as **Exhibit 21** is a true and correct copy of a list of "Investments and Current Involvements" for Ron Lachman, as found on CenterGate Research Group website at <http://www.centergate.com/rlachman-b.html>, and as accessed on February 21, 2012.

23. Attached hereto as **Exhibit 22** a true and correct copy of Plaintiffs' Opposition to Motion to Transfer in United States District Court, Central District of California Civil Docket for Case No.: 2:07-cv-06161-VBF-PLA obtained from the United States District Court, Central District of California Document Filing System.

24. Attached hereto as **Exhibit 23** is a true and correct copy of Martin E. Hellman's Home Page as found on the Stanford website at the web address <http://ee.stanford.edu/~hellman/>, and as accessed on February 24, 2012.

25. Attached hereto as **Exhibit 24** is a true and correct copy of the December 12, 2011 IT News article entitled *EMC, VMware Named in Cloud Patent Suit* as found at the web address <http://www.itnews.com.au/News/282994,emc-vmware-named-in-cloud-patent-suit.aspx>, and as accessed on February 3, 2012.

26. Attached hereto as **Exhibit 25** is a true and correct copy of Business Entity Details of Audible Magic Corp. from the California Secretary of State Debra Brown, as obtained from the web address <http://kepler.sos.ca.gov/cbs.aspx>, and as accessed on February 24, 2012.

27. Attached hereto as **Exhibit 26** is a true and correct copy of the March 1, 2001 GlobeSt.com article entitled *Skype Relocates to 91,000SF in Palo Alto* as found at the web address http://www.globest.com/news/1861_1861/sanjose/307542-1.html, and as accessed on February 24, 2012.

28. Attached hereto as **Exhibit 27** is a true and correct copy of the Accurant Finder Report from LexisNexis showing the current location for a Anthony Neumann at 13138 Huston St., in Sherman Oaks, California.

29. Attached hereto as **Exhibit 28** is a true and correct copy of the Accurant Finder Report from LexisNexis showing the current location for a Howard Lasky at 122 Howard Dr., in Tiburon, California.

30. Attached hereto as **Exhibit 29** is a true and correct copy of Table C-5 regarding U.S. District Courts-Median Time Intervals From Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition During the 12-Month Period Ending June 30, 2011, from the Administrative Office of the U.S. Courts, as found at the web address <http://www.uscourts.gov/uscourts/Statistics/StatisticalTablesForTheFederalJudiciary/2011/C05Jun11.pdf>, and as accessed on February 27, 2011.

31. Attached hereto as **Exhibit 30** is a true and correct copy of the unpublished opinion, *Wireless Recognition Techs. LLC v. A9.com, Inc.*, No. 2:10-cv-364 (E.D. Tex. Feb. 15, 2012) obtained from the United States District Court, Eastern District of Texas Document Filing System.

32. Per my searching on Expedia.com, the shortest commercial flight from Los Angeles to Tyler, Texas is a 4 hour and 20 minute flight on American Airlines *with a stopover* in Dallas Fort Worth, Texas (1336 total miles). Per my search using Google Maps, the shortest route by car from Pounds Field Tyler, Texas Airport to the Eastern District of Texas courthouse in Tyler, Texas is 16 minutes. Thus, the total travel time is approximately 4 hours and 36 minutes. Per my searching on Expedia.com, the shortest commercial flight from the San Francisco Bay Area to Tyler, Texas is a flight on American Airlines *with a stopover* in Dallas Fort Worth, Texas (1566 total miles).

33. Per my searching on Expedia.com, the shortest *direct* commercial flight from the San Francisco Bay Area to Los Angeles is a 1 hour and 20 minute flight on Delta from San Francisco International Airport to Los Angeles International Airport (339 total miles).

34. Per my searching on Expedia.com, the shortest commercial flight from Seattle, Washington to Tyler, Texas is a 5 hour and 20 minute flight on American Airlines *with a stopover* in Dallas Fort Worth, Texas. Per my searching on Expedia.com, the shortest *direct* commercial flight from Seattle, Washington to San Francisco Bay Area is a 2 hour and 3 minute flight on United Airlines from Seattle-Tacoma International Airport to San Francisco International Airport. Per my searching on Expedia.com, the shortest *direct* commercial flight from Seattle, Washington to Los Angeles, California is a 2 hour and 30 minute flight on Virgin America from Seattle-Tacoma International Airport to Los Angeles International Airport.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on February 27, 2012, in Palo Alto, California.


